

# In the Court of Appeals of the State of Alaska

**Jeremy Larson,**

Appellant,

v.

**State of Alaska,**

Appellee.

Court of Appeals No. **A-12782**

## **Order**

Motion to Withdraw as Attorney and  
Motion to Extend Time to File Petition  
for Hearing

Date of Order: **5/4/2021**

Trial Court Case No. **3AN-12-05585CR**

The Appellant, Jeremy Lee Larson, is currently represented by Ember S. Tilton, a privately retained counsel. This Court issued its decision affirming the judgment of the superior court on March 10, 2021.

On April 20, Larson filed a motion requesting the appointment of an attorney to assist him in filing a petition for rehearing in this Court and in filing a petition in the Supreme Court, if necessary. In his motion, Larson asserts that his niece contacted Tilton on March 10, and Tilton told Larson's niece that to preserve Larson's rights, Tilton would file a petition for rehearing and a petition for hearing. Larson also asserts that Tilton indicated that he would ask this Court to appoint a new attorney to represent Larson. But Larson states that he never heard from Tilton again, that Tilton blocked Larson's phone calls, and that Tilton did not respond to any of the messages or emails Larson's niece sent to Tilton. Larson also points out that no petitions have been filed on his behalf in either this Court or the Supreme Court.

This Court directed the Appellate Clerk's office to have Tilton respond to Larson's motion. In response, Tilton has filed a motion to extend time to file a petition for hearing, and a motion to withdraw as counsel. Tilton, in his motion to extend time, states that "[w]hile many of the facts recited in Mr. Larson's 'Request for Appointed Counsel' vary from what [Tilton] would recall," Tilton does believe that Larson is

indigent and is requesting counsel appointed at public expense.

In his motion to withdraw, Tilton supports his request to withdraw on the ground that because Larson made various statements regarding attorney-client communications, there now exists — “due to the confidential nature of these communications” — “a conflict of interest ... under Ethical Rule 1.7(b).” This Court expresses no opinion concerning Tilton’s claim that a conflict of interest now exists between him and Larson under this rule, although it notes that Larson (not Tilton) is the privilege holder with regard to Larson’s confidential communications with counsel. The Court also notes that (1) Tilton has filed the motion to extend time to file a petition for hearing in the wrong forum (it should have been filed in the Alaska Supreme Court); (2) Tilton has failed to file a motion to accept as late-filed the motion to extend time to file a petition for hearing; (4) Tilton has failed to adequately explain why he did not act more diligently in this case; and (5) Tilton has seemingly ignored his client’s request to file a petition for rehearing in this Court.

**IT IS ORDERED:**

1. Larson’s case is temporarily remanded to the superior court so that the superior court can determine whether Larson is eligible for court-appointed counsel. The superior court shall make this determination on or before Thursday, May 20, 2021. The superior court may extend this deadline for good cause upon notice to this Court.

2. If the superior court finds that Larson is eligible for court-appointed counsel, the superior court shall make the appointment and shall direct the appointed attorney to promptly file an entry of appearance in this Court. If the superior court finds that Larson is not eligible for court-appointed counsel, the superior court shall promptly notify this Court of its finding.

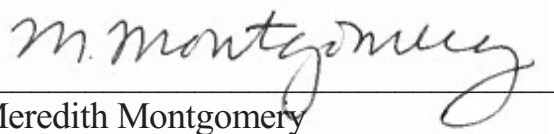
3. In remanding this case, this Court acknowledges that under the current limitations imposed because of the COVID-19 public health crisis, this hearing should be done telephonically if possible. If the hearing cannot be done telephonically, then the superior court shall inform this Court of this circumstance as soon as possible.

4. Tilton's motion to withdraw and his motion for an extension of time to file a petition for hearing are both held in abeyance, pending the superior court's report upon remand. If Larson is appointed counsel at public expense, that counsel after filing a notice of appearance, shall promptly consult with Larson in order to inform this Court in writing whether Larson will be filing a petition for rehearing in this Court, or if Larson will instead file a petition for hearing in the Supreme Court. If Larson intends to file only a petition for hearing in the Supreme Court, the Appellate Clerk's office will transfer this case to the Supreme Court.

5. Additionally, the Clerk of the Appellate Courts is directed to serve a copy of this order on the Discipline Counsel of the Alaska Bar Association, together with the pertinent underlying pleadings — that is, Larson's motion for the appointment of counsel, Tilton's motion to withdraw, Tilton's motion to extend time to file a petition for hearing, and the State's response to these motions.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts

  
Meredith Montgomery

cc: Presiding Judge, Third Judicial District  
Bar Counsel

Distribution:

Mail:  
Tilton, Ember S  
Soderstrom, Donald

Larson, Jeremy